

SENATE AMENDMENTS

2nd Printing

By: King of Parker, Harless, Slawson,
Hernandez, Darby, et al.

H.B. No. 2483

A BILL TO BE ENTITLED

AN ACT

relating to utility facilities for restoring electric service after
a widespread power outage.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter Z, Chapter 39, Utilities Code, is
amended by adding Section 39.918 to read as follows:

Sec. 39.918. UTILITY FACILITIES FOR POWER RESTORATION AFTER
WIDESPREAD POWER OUTAGE. (a) In this section, "widespread power
outage" means an event that results in:

(1) a loss of electric power that:

(A) affects a significant number of distribution
customers of a transmission and distribution utility; and

(B) has lasted or is expected to last for at least
eight hours; and

(2) a risk to public safety.

(b) Notwithstanding any other provision of this subtitle, a
transmission and distribution utility may:

(1) lease and operate facilities that provide
temporary emergency electric energy to aid in restoring power to
the utility's distribution customers during a widespread power
outage in which:

(A) the independent system operator has ordered
the utility to shed load; or

(B) the utility's distribution facilities are

1 not being fully served by the bulk power system under normal
2 operations; and

3 (2) procure, own, and operate, or enter into a
4 cooperative agreement with other transmission and distribution
5 utilities to procure, own, and operate jointly, transmission and
6 distribution facilities that have a lead time of at least six months
7 and would aid in restoring power to the utility's distribution
8 customers following a widespread power outage. In this section,
9 long lead time facilities may not be electric energy storage
10 equipment or facilities under Chapter 35, Utilities Code.

11 (c) A transmission and distribution utility that leases and
12 operates facilities under Subsection (b)(1) may not sell electric
13 energy or ancillary services from those facilities.

14 (d) Facilities described by Subsection (b)(1):

15 (1) must be operated in isolation from the bulk power
16 system; and

17 (2) may not be included in independent system
18 operator:

19 (A) locational marginal pricing calculations;

20 (B) pricing; or

21 (C) reliability models.

22 (e) A transmission and distribution utility that leases and
23 operates facilities under Subsection (b)(1) shall ensure, to the
24 extent reasonably practicable, that retail customer usage during
25 operation of those facilities is adjusted out of the usage reported
26 for billing purposes by the retail customer's retail electric
27 provider.

1 (f) A transmission and distribution utility shall, when
2 reasonably practicable, use a competitive bidding process to lease
3 facilities under Subsection (b)(1).

4 (g) A transmission and distribution utility that leases and
5 operates facilities under Subsection (b)(1) or that procures, owns,
6 and operates facilities under Subsection (b)(2) shall include in
7 the utility's emergency operations plan filed with the commission,
8 as described by Section 186.007, a detailed plan on the utility's
9 use of those facilities.

10 (h) The commission shall permit:

11 (1) a transmission and distribution utility that
12 leases and operates facilities under Subsection (b)(1) to recover
13 the reasonable and necessary costs of leasing and operating the
14 facilities, including the present value of future payments required
15 under the lease, using the rate of return on investment established
16 in the commission's final order in the utility's most recent base
17 rate proceeding; and

18 (2) a transmission and distribution utility that
19 procures, owns, and operates facilities under Subsection (b)(2) to
20 recover the reasonable and necessary costs of procuring, owning,
21 and operating the facilities, using the rate of return on
22 investment established in the commission's final order in the
23 utility's most recent base rate proceeding.

24 (i) The commission shall authorize a transmission and
25 distribution utility to defer for recovery in a future ratemaking
26 proceeding the incremental operations and maintenance expenses and
27 the return, not otherwise recovered in a rate proceeding,

1 associated with the leasing or procurement, ownership, and
2 operation of the facilities.

3 (j) A transmission and distribution utility may request
4 recovery of the reasonable and necessary costs of leasing or
5 procuring, owning, and operating facilities under this section,
6 including any deferred expenses, through a proceeding under Section
7 36.210 or in another ratemaking proceeding. A lease under
8 Subsection (b)(1) must be treated as a capital lease or finance
9 lease for ratemaking purposes.

10 (k) This section expires September 1, 2029.

11 SECTION 2. Not later than January 1, 2029, the Public
12 Utility Commission of Texas shall:

13 (1) analyze the effects of authorizing transmission
14 and distribution utilities to lease, operate, procure, or own the
15 facilities described by Section 39.918(b), Utilities Code, as added
16 by this Act; and

17 (2) submit a report to the legislature that includes
18 the analysis produced under Subdivision (1) of this section and a
19 recommendation of whether the legislature should allow Section
20 39.918, Utilities Code, as added by this Act, to expire.

21 SECTION 3. This Act takes effect September 1, 2021.

ADOPTED

MAY 22 2021

Latey Spaw
Secretary of the Senate

BY:

FLOOR AMENDMENT NO. 1

1 Amend H.B. No. 2483 (senate committee printing) by striking
2 all below the enacting clause and substituting the following:

3 SECTION 1. Section 35.151, Utilities Code, is amended to
4 read as follows:

5 Sec. 35.151. ELECTRIC ENERGY STORAGE. This subchapter
6 applies only to the ownership or operation of electric energy
7 storage equipment or facilities in the ERCOT power region that are
8 intended to:

9 (1) provide energy or ancillary services at wholesale,
10 including electric energy storage equipment or facilities listed on
11 a power generation company's registration with the commission or,
12 for an exempt wholesale generator, on the generator's registration
13 with the Federal Energy Regulatory Commission; or

14 (2) provide reliable delivery of electric energy to
15 distribution customers.

16 SECTION 2. Subchapter E, Chapter 35, Utilities Code, is
17 amended by adding Section 35.153 to read as follows:

18 Sec. 35.153. CONTRACTS FOR ELECTRIC ENERGY STORAGE FOR
19 RELIABILITY SERVICES. (a) A transmission and distribution
20 utility, with prior approval of the commission, may contract with a
21 power generation company to provide electric energy from an
22 electric energy storage facility to ensure reliable service to
23 distribution customers.

24 (b) The commission may not authorize ownership of an
25 electric energy storage facility by a transmission and distribution
26 utility.

27 (c) Before entering into a contract under Subsection (a),
28 the transmission and distribution utility must issue a request for
29 proposals for use of an electric energy storage facility to meet the

1 utility's reliability needs.

2 (d) A transmission and distribution utility may enter into a
3 contract under Subsection (a) only if use of an electric energy
4 storage facility is more cost-effective than construction or
5 modification of traditional distribution facilities.

6 (e) A transmission and distribution utility may not enter
7 into a contract under Subsection (a) that reserves an amount of
8 capacity exceeding the amount of capacity required to ensure
9 reliable service to the utility's distribution customers.

10 (f) A power generation company that owns or operates an
11 electric energy storage facility subject to a contract under
12 Subsection (a) may sell electric energy or ancillary services
13 through use of the facility only to the extent that the company
14 reserves capacity as required by the contract.

15 (g) A power generation company that owns or operates an
16 electric energy storage facility subject to a contract under
17 Subsection (a) may not discharge the facility to satisfy the
18 contract's requirements unless directed by the transmission and
19 distribution utility.

20 (h) A contract under Subsection (a) must require a power
21 generation company that owns or operates an electric energy storage
22 facility to reimburse a transmission and distribution utility for
23 the cost of an administrative penalty assessed against the utility
24 for a violation caused by the facility's failure to meet the
25 requirements of the agreement.

26 (i) In establishing the rates of a transmission and
27 distribution utility, a regulatory authority shall review a
28 contract between the utility and a power generation company under
29 Subsection (a). The utility has the burden of proof to establish
30 that the costs of the contract are reasonable and necessary. The
31 regulatory authority may authorize a transmission and distribution

1 utility to include a reasonable return on the payments required
2 under the contract only if the contract terms satisfy the relevant
3 accounting standards for a capital lease or finance lease.

4 (j) The total amount of electric energy storage capacity
5 reserved by contracts under Subsection (a) may not exceed 100
6 megawatts. The commission shall by rule establish the maximum
7 amount of electric energy storage capacity allotted to each
8 transmission and distribution utility.

9 (k) The commission shall adopt rules as necessary to
10 implement this section and establish criteria for approving
11 contracts under Subsection (a).

12 SECTION 3. The Public Utility Commission of Texas shall
13 adopt rules required by Section 35.153, Utilities Code, as added by
14 this Act, as soon as practicable after the effective date of this
15 Act.

16 SECTION 4. This Act takes effect September 1, 2021.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 24, 2021

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB2483 by King, Phil (Relating to utility facilities for restoring electric service after a widespread power outage.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The Public Utility Commission anticipates that the costs associated with the bill's provisions relating to agreements between power generation companies and transmission and distribution utilities in the ERCOT power region could be absorbed using existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 473 Public Utility Commission of Texas, 475 Office of Public Utility Counsel

LBB Staff: JMc, LBO, SZ, MB, RRE, SMAT

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 14, 2021

TO: Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB2483 by King, Phil (Relating to utility facilities for restoring electric service after a widespread power outage.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

It is assumed that the costs associated with the bill's provisions relating to utility facilities for restoring electric service after a widespread power outage could be absorbed using existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 473 Public Utility Commission of Texas

LBB Staff: JMc, SZ, MB, RRE

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 7, 2021

TO: Honorable Chris Paddie, Chair, House Committee on State Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB2483 by King, Phil (relating to utility facilities for restoring electric service after a widespread power outage.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

It is assumed that the costs associated with the bill's provisions relating to utility facilities for restoring electric service after a widespread power outage could be absorbed using existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 473 Public Utility Commission of Texas, 475 Office of Public Utility Counsel

LBB Staff: JMc, SMAT, MB, RRE

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

March 24, 2021

TO: Honorable Chris Paddie, Chair, House Committee on State Affairs

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB2483 by King, Phil (Relating to utility facilities for restoring service after widespread outage.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The PUC anticipates that the costs associated with the bill's provisions relating to utility facilities for restoring service after widespread outage could be absorbed using existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 473 Public Utility Commission of Texas, 475 Office of Public Utility Counsel

LBB Staff: JMc, SMAT, MB, RRE